IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.A A No. 740 of 2000

Date of decision : November 21, 2007

State of H.P. **...Appellant.**

Versus

Dharam Chand and others **…Respondents.**

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The Hon'ble Mr. Justice Surjit Singh, Judge.

Whether approved for reporting?

For the Appellant : Mr. D.S. Nainta, Deputy Advocate General.

For the Respondents : Mr. R.K. Bawa, Senior Advocate, with Mr. Inderjeet Singh, Advocate.

Surjit Singh, Judge(Oral)

Respondents were charged with and tried for offences punishable under Sections 451, 323 and 506 read with Section 34 IPC, for allegedly trespassing into the premises in occupation of PW-3 Chanchla Devi and her hushand PW-2 Tej Pal and voluntarily causing injuries to Chanchla Devi and intimidating her, in furtherance of their common intention, to pressurize said Chanchla Devi and her husband to vacate the premises.

2. Trial Court has acquitted all the respondents holding that the case is not proved beyond reasonable doubt. State is aggrieved by the judgment of acquittal and has, therefore, filed the present appeal.

3. I have heard the learned Deputy Advocate General and gone through the record.

4. PW-3 Chanchla Devi made a report to the police at 9 p.m. on 11.5.1997 that around 2 p.m. when she was present in her

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Whether reporters of the local papers may be allowed to see the judgment?

house and her nephew PW-4 Ashwani was also there, all the three respondents entered her house and one of them, namely Manish, spat on her face and thereafter all the three gave beating to her. There was no apparent injury on her person and, therefore, she was not got medically examined. While in the witness-box, PW-3 Chanchla Devi stated that the incident had taken place at 9 or 9.30 a.m. She also stated that she was pulled by hair and assaulted. She did not say that any of the respondents spat on her face. She was cross-examined with the leave of the Court by the prosecution and it was only in the course of such cross-examination and on the suggestions of the learned APP that she stated that the incident had taken place at 2 p.m. and that one of the respondents spat on her face and thereafter all of them gave beating to her. The fact that initially PW-3 Chanchla testified that the incident had taken place at 9 or 9.30 a.m. and also did not make a mention of alleged spitting on her face, itself is enough to doubt the prosecution version. Again, in the report, which was lodged with the police, i.e. Ex. PW-3/A, by PW-3 Chanchla Devi, it was got recorded that she was rescued by her husband PW-2 Tej Pal and her nephew PW-4 Ashwani, who were present inside the house, but Tej Pal, while in the witness-box, though did state that he was present in the house when the incident took place, at the same time he stated that he did not see the occurrence. The statement of this witness also shows that the complainant's version is concocted. Now, when the incident is alleged to have taken place inside the house of the complainant where her husband was present, the husband was supposed to have witnessed the same. Husband's statement that he did not see the occurrence suggests that no occurrence had taken place at 2 p.m., as alleged in report Ex. PW-

3/A and as testified by PW-3 Chanchla Devi in the course of cross-examination by the learned APP.

5. In view of the abovestated position, I see no reason for interfering with the judgment of the trial Court. Hence, the appeal is dismissed.

November 21, 2007(sd) **(Surjit Singh), J**